

Complaint.

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IN THE MATTER OF
MARINELLO COMPANY.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1149—March 17, 1925.

SYLLABUS.

Where a corporation engaged in the manufacture of toilet preparations and in the sale thereof to jobbers and retail dealers; in pursuance of a policy directed to the observance of the prices fixed by it for the sale of its products at retail, which prices it incorporated in price lists issued by it to its customers and to the trade generally,

- (a) Entered into, and procured, contracts or agreements with dealers binding them to observe such prices;
 - (b) Requested its dealer customers to report the names of price cutters or suspected price cutters;
 - (c) Sought the cooperation of such dealers in making effective its aforesaid policy by investigating cases of price cutting reported to it and advising reporting dealers thereof and of its appreciation of their action in furnishing it such information, by informing them that it had refused or would refuse further sales to price cutters who would not give assurances of adherence to the desired prices, and by so doing; and
 - (d) Investigated price cutting on the part of dealers securing their goods from vendors other than itself, with a view to cutting off their source of supply;
- With the result that it secured the cooperation of customer dealers generally and of all interested parties, its prices were generally observed, dealers were prevented from selling its products at such lower prices as they might deem warranted by their respective selling costs and trade conditions generally, and competition in the sale thereof was hindered:

Held, That such a plan of resale price maintenance, under the circumstances set forth, constituted an unfair method of competition.

Mr. Alfred M. Craven for the Commission.

Mr. Max W. Zabel of Chicago, Ill., for respondent.

COMPLAINT.

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that the Marinello Company hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Wisconsin, with its principal office and place of business in the city of La Crosse, in said State. It is engaged

in the manufacture of cosmetics, preparations for cleansing and the treatment of the human skin, and allied products, commonly called toilet articles, and the sale thereof to wholesale and retail dealers located at points in various States of the United States. It causes said products when so sold to be transported from its said principal place of business in the city of La Crosse, Wis., into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of its aforesaid business respondent is in competition with other individuals, partnerships and corporations similarly engaged in the manufacture and/or sale of cosmetics, preparations for cleansing and the treatment of the human skin, and allied products, in interstate commerce.

PAR. 2. In the course and conduct of its aforesaid business respondent enforces a merchandising system adopted by it of fixing and maintaining certain specified uniform prices at which its aforesaid products shall be resold by dealers handling same, and respondent enlists and secures the support and cooperation of dealers and of respondent's officers, agents and employees, in enforcing said system. In order to carry out said system respondent employs the following, among other means, whereby respondent and those cooperating with it, undertake to prevent and do prevent dealers handling respondent's said products from reselling the same at prices less than aforesaid resale prices established by respondent:

(a) Respondent fixes uniform minimum prices at which retail dealers handling respondent's said products shall resell the same, and issues and sends to dealers handling said products and the trade generally price lists in which said uniform minimum prices are set forth.

(b) Respondent makes it generally known to dealers by letters, circulars, salesmen's interviews, and by other means, that it expects and requires all dealers handling said products to maintain and enforce said minimum resale prices, and that respondent will refuse to further sell and supply said products to dealers who fail to maintain and enforce said resale prices.

(c) Respondent enters into contracts, agreements, informal understandings and arrangements with dealers for the maintenance by them of said resale prices as a condition of opening accounts with such dealers or of continuing their supply of said products.

(d) Respondent solicits and receives from dealers handling its said products reports of the failure of other dealers handling same to observe and maintain said resale prices.

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(e) Respondent employs its salesmen and other agents and employees to ascertain, investigate and secure information as to the failure of any dealers to observe and maintain said resale prices.

(f) Respondent uses information received through the means set out in Specifications (d) and (e), or through any other means, to induce and coerce dealers who fail to observe said prices to maintain said prices in the future; by exacting promises and assurances from said dealers that they will in future maintain said prices and by threatening said dealers that if they do not maintain said prices respondent will refuse to further supply them with its said products.

(g) Respondent refuses to further supply with said products dealers who fail to maintain said resale prices and who sell at less than said prices, unless and until such offending dealers have given satisfactory assurances and enter into contracts or undertakings that they will in future observe and maintain said prices.

(h) Respondent keeps records upon which are entered the names of dealers who fail to maintain said resale prices and who sell at less than said prices, which said records respondent and those cooperating with it use in and about the enforcement of said system of resale prices.

(i) Respondent uses other equivalent cooperative means and methods for the enforcement of said system of said resale prices.

As the result of said acts and practices respondent's said resale prices are generally maintained.

PAR. 3. For more than two years last past respondent and those cooperating with it have engaged in the above alleged acts and practices, in the manner, under the circumstances, and with the result all hereinbefore set out.

PAR. 4. The direct effect of the above alleged acts and practices of respondent has been and now is to suppress competition among dealers in the distribution and sale of respondent's said products; to constrain said dealers to sell said products at aforesaid prices fixed by respondent and to prevent them from selling said products at such less prices as they may desire, and to deprive the ultimate purchasers of said products of the advantages in price and otherwise which they would obtain from the natural and unobstructed flow of commerce in said commodities under conditions of free competition. Wherefore, said acts and practices of respondent are all to the prejudice of the public and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act To create a Federal Trade Com-

mission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Marinello Company, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered its appearance and filed its answer herein, hearings were had and evidence was thereupon introduced on behalf of the Commission and the respondent, before W. W. Shepard, an examiner of the Federal Trade Commission, duly appointed.

Thereupon this proceeding came on for a final hearing on the briefs and oral argument, and the Commission being fully advised in the premises makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent is now, and has been since 1904, a corporation organized and existing under the laws of the State of Wisconsin, with its principal place of business at La Crosse in said State engaged in the manufacture of cosmetics and toilet preparations which it has sold and now sells to customers located in all the States of the United States. Respondent maintains branch offices and stocks of goods at Chicago, New York, Denver and Los Angeles. Its customers consist of the leading jobbers of drugs in the large cities, retail druggists, many in number, and owners of beauty shops, in number 6,500.

Respondent transports, or causes its products to be transported when sold, from its factory or one of its branch offices to the purchasers thereof at their various locations throughout the United States.

In the course and conduct of its business respondent is in competition with other individuals, partnerships and corporations, also engaged in the manufacture of cosmetics and toilet preparations and who sell and transport same from their respective factories in the United States into and through the various States of the United States. Respondent's annual sales are in excess of \$500,000.

PAR. 2. Respondent issues to the trade from time to time price lists descriptive of its products, in which price lists are specified the unit price and the price per dozen of each of the 100 or more products manufactured by respondent. For example in the price list issued January 1, 1924, the specified retail price of "Marinello

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(e) Respondent employs its salesmen and other agents and employees to ascertain, investigate and secure information as to the failure of any dealers to observe and maintain said resale prices.

(f) Respondent uses information received through the means set out in Specifications (d) and (e), or through any other means, to induce and coerce dealers who fail to observe said prices to maintain said prices in the future; by exacting promises and assurances from said dealers that they will in future maintain said prices and by threatening said dealers that if they do not maintain said prices respondent will refuse to further supply them with its said products.

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PAR. 3. For more than two years last past respondent and those cooperating with it have engaged in the above alleged acts and practices, in the manner, under the circumstances, and with the result all hereinbefore set out.

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PAR. 2. Respondent issues to the trade from time to time price lists descriptive of its products, in which price lists are specified the unit price and the price per dozen of each of the 100 or more products manufactured by respondent. For example in the price list issued January 1, 1924, the specified retail price of "Marinello

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Tissue Cream" is 60 cents and the dozen price \$4.80. Jobbers are given a discount from the dozen price of 15 per cent with an additional 2 per cent for cash. Retailers and beauty shops are also given a discount varying according to the quantity purchased. Respondent does not sell consumers or the users of its products. Beauty shops in addition to giving facial and other treatments sell respondent's products to the consumer.

PAR. 3. Respondent travels about 15 salesmen who solicit and receive orders for respondent's products. These orders are in writing and are made by filling out the following form. (Com. Ex. 126.)

Sold To..... 192..			
Address.....			
Ship via.....			
Terms 2% 10 days net			
No. Wanted	Name of Article	Price	Amount
.....			
.....			
.....			
FULL RETAIL PRICES TO BE MAINTAINED ON ALL MERCHANDISE			
Signature of Customer		Signature of Solicitor	

This blank when filled in and signed by the purchaser, and also by the agent who solicits the order, is forwarded to the respondent and shipment made thereon from the factory at La Crosse, or from one of the various branch offices as the location of the purchaser may indicate. The vice president of the respondent, who is also general sales manager, testifies, and the Commission finds it to be a fact, that the respondent sold its products on written orders taken upon this blank and that same had been used by respondent for five or six years, and is still being used.

PAR. 4. In October of 1922 Seligman & Latz of New York City, owners of forty-three beauty shops located in prominent cities of 22 different States, began negotiations with respondent with a view of handling respondent's products in their various stores or shops, with the result that a written memorandum under date of October 16, 1922, was drawn up, signed by respondent, and addressed to Seligman & Latz (Com. Ex. 133).¹ Portions of this memorandum relevant to this inquiry are as follows:

Gentlemen: Confirming interview of even date relative to the adoption of Marinello preparations throughout your chain of shops, we give herewith conditions under which we will supply your departments. * * *

¹ Exhibits not published.

As you know and appreciate the peculiarities of our development, we must insist on full compliance with the following conditions * * *.

One of the conditions following the paragraph of the memorandum last quoted is the following:

All Marinello preparations to be sold at full retail price as per our list. No cutting under any circumstances.

In respect to this memorandum of the vice president and general sales manager of respondent testified, and the Commission finds it to be a fact, that while it was not signed by Seligman & Latz, that it did constitute the final arrangement under which respondent commenced and has since continued the sale of its products to Seligman & Latz.

PAR. 5. Many of the exhibits in the record consisting of correspondence between the respondent and its customers contain reference to agreements to observe respondent's specified prices as having been made. The manager of the drug department of Sears, Roebuck & Company, the large mail-order house of Chicago, writing to the secretary of the respondent, under date of March 23, 1922, says:

You, no doubt, remember calling on us some time last year and our making definite arrangements regarding Marinello products. You agreed to give us indefinitely your regular jobbing discount, and if we were to buy \$1,000 worth of goods per month at your list price, you would give us 5% extra and one dozen free with each gross. You also asked that we come up in our selling price, and you and I agreed upon selling prices when here, which I understand is perfectly agreeable. (Com. Ex. 62.)

Respondent replied to this letter under date of March 28, 1922, as follows:

I wish to emphasize this fact. You must admit that a cog has slipped in your office several times and you quoted cut-rate prices when you agreed that you would not do so.

It is very true that you apologized and recalled or withheld some of the catalogs. However, enough of them flooded the country to do us a great deal of harm especially in the West. (Com. Ex. 63.)

The respondent writes to a retailer who had complained of price cutting on the part of a competitor, under date of May 11, 1921, as follows:

We note what you say with reference to Mr. Kiernan (a salesman) stating that you could sell the 9-oz. creams for anything you wanted to and we are to-day requesting Mr. Wildey, our Eastern representative, to set Mr. Kiernan right in this connection as we do maintain our prices and insist on having our packages sold at the regular retail prices. (Com. Ex. 38½.)

Under date of January 12, 1922, respondent wrote to a retailer at Kennewick, Washington, who had complained of price cutting on

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the part of Sears, Roebuck & Company. This letter, among other things, states:

As for mail order houses or department stores being given an unfair financial advantage over the shops by us will state that we sell all of our products both to shops and to the open market with the understanding that they are not to be sold at reduced prices, and surely the shop owners have equally as great if not greater margins of profit than the open market accounts.

PAR. 6. Under date of March 23, 1922, a salesman of the respondent wrote to the respondent, as follows:

Could have sold the Reshold Dept. Store—Dubuque, this morning—a four or five hundred order if I would have allowed them to cut prices same as they do on all other lines, in fact everything in their store, but of course would not allow that. (Com. Ex. 21.)

There are many other exhibits which show the making of agreements between respondent and its customers to observe the retail prices specified by respondent. The exhibits consisting of correspondence between the respondent and its customers fully show, and the Commission finds it to be a fact, that the respondent insisted upon the observance of its specified prices by dealers handling its goods, and that it declined to sell any dealer without a thorough understanding that the goods would be sold at such specified prices.

PAR. 7. Respondent has received from dealers many complaints that other dealers were cutting prices. Such reports are also made by respondent's salesmen. These reports are promptly investigated by the respondent provided the person reporting gives sufficient information to enable investigation to be set on foot. If this information be not given in the first instance respondent writes to the complainant for fuller particulars with the promise that the report will have prompt investigation. Under date of March 21, 1922, respondent wrote a customer, J. A. Rudy & Sons, as follows:

Yours of the 16th has come to hand from which we notice that the E. Guthrie & Company store cut prices on Marinello preparations at all times and not only when they have special sales. We are very sorry indeed to note this but as explained in our letter of the 16th we have again taken the matter up with them and assure you we will do everything in our power to maintain prices in your city. We will not drop this matter until we have an understanding with them. We believe that by appealing to them in the right way, however, we will be able to get their cooperation.

The respondent took up the alleged price cutting with the alleged price cutter, Guthrie & Company, by correspondence, and received from the latter, under date of March 28, 1922, a letter as follows:

We are in receipt of your letter of the 24th inst., in regards to selling Marinello goods at reduced prices.

We sell all goods that cost us \$4.80 less 15% at 49¢, which we consider a fair profit.

Trusting that this is not in any way detrimental to your interest, and that this is the information you want. * * *

Under date of April 19, 1922, Guthrie & Company were advised by respondent that a 15 per cent trade discount which had theretofore been given to Guthrie & Company by respondent would be recalled. (Com. Ex. 8.) Guthrie & Company responded to this letter cancelling all orders. (Com. Ex. 9.)

A customer, under date of August 16, 1922, reported that the firm of Schuneman & Evans, of St. Paul, was cutting prices. The respondent, under date of August 29, 1922, wrote the complaining customer as follows:

We immediately took up the matter with our salesman, Mr. F. J. Colton, who was in Minneapolis at that time and he called on the buyer in the drug department at Schuneman & Evans and we are quite certain that there will be no further price cutting.

In response to a letter from a customer reporting price cutting on the part of H. W. Alvey, of Lincoln, Illinois, respondent writes as follows:

Mrs. Maurer (president of respondent) received your letter in regard to H. W. Alvey, of Lincoln, Ill., and asked us to investigate this matter carefully. We find that this druggist has ordered some of the Marinello preparations through jobbers such as the Churchill Drug Company, Fuller-Morrison, Noyes Bros., etc. He is not buying from us direct. According to the records we have been able to obtain, however, he must have only a very small stock on hand. * * * Now that we know that H. W. Alvey is in the habit of cutting prices we of course will guard against any goods being shipped to him from the house although it is practically impossible for us to stop him from getting the preparations through jobbers. (Com. Ex. 23.)

PAR. 8. Reports to respondents of price cutting on the part of dealers not buying direct from respondent are investigated and acted upon by respondent. A case of this kind appears in Commission's Exhibit 109, which is a letter written by the general sales manager, then in charge of the New York branch, to the secretary of the respondent at La Crosse, Wis. It reads in part as follows:

We are in receipt of yours of the 22nd relative to complaint of the Morehouse-Martins Company of Columbus, Ohio, and in response thereto would advise that we do not know anything about The Boston Store who are cutting in that community.

Would suggest that you have MacLean stop in The Boston Store on his next trip to Columbus and endeavor to have The Boston Store restore their prices to full standard.

They may be procuring goods through some Ohio jobber. In all instances where we write to the concerns that are cutting, we inclose a stamped envelope for their response and keep after them until they do respond advising that they will keep prices to full standard. That, together with the salesman personally going after them, should get an adjustment of the matter.

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Further activities of the respondent in reference to cases of price cutting on the part of dealers who were not customers of respondent are shown by Commission's Exhibit 119, which is a letter written by the respondent to its Denver branch, a portion of which is as follows:

Have noted from your letter of the 13th that some of the drug stores in Casper, Wyo., are cutting prices on Marinello goods. The clippings from the papers which you have sent us would indicate that one of these drug stores is "Pep's," but there is nothing to indicate who is running the large ad. The only name given is "Casper's Leading Drug Stores." However, we have investigated here and can not find that any orders have been filled for druggists in Casper, Wyo., in 1922 or 1923 and we do not know what their source of supply may be. Perhaps it would be possible for the Denver salesman who makes this territory, to call on these buyers and endeavor to get this information. *About the only thing that can be done in a case of this kind is to endeavor to cut off the source of supply.*

There is no evidence that the respondent did cut off the source of supply of any dealer not buying direct from respondent, but it is apparent from the above letter that the respondent did make investigation as to the source of supply in that instance but was unable to discover same.

The practice of the respondent in respect to reported price cutters appears in the examination of the vice president and general manager, as follows:

Q. In other words, you, in taking this matter up with fellows who have been reported as price cutters, you urge upon him the importance of selling at the price which you have specified in your price list?

A. We do.

Q. And he sometimes agreed to do that and sometimes he does not?

A. That is correct.

Q. And in cases where he does not agree to it, in most of the cases where he does not agree to it, you simply refuse to make further shipments?

A. I would not say in most cases: I would say that is a minority, because of the fact, as I mentioned before, he may be a good source of distribution in the community, and we can't afford to have him without the goods.

Q. Well, would that be true in towns of less than 5,000 people in the United States?

A. Maybe.

Q. But unless he be a source of good distribution, then the rule would apply that you would refuse to make further shipments?

A. Yes, sir. (Trans. pp. 50 and 51.)

PAR. 9. Respondent fixes uniform prices at which its products shall be retailed, and circulates among its customers and the trade generally price lists setting forth such prices. Respondent insists upon the observance of such prices and to that end procures from its customers written contracts, agreements, and understandings, obligating its customers to observe the prices specified.

Respondent solicits and procures from dealers retailing its products reports of price cutting on the part of other dealers. When such reports are not sufficient to enable respondent to make an investigation it requests and receives from the reporting dealers further information. Respondent, in acknowledging such reports and information, assures the reporting dealers of its appreciation of same and its cooperation in endeavoring to procure the maintenance of the specified prices on the part of the alleged price cutters. It advises the reporting dealer that it will do everything in its power to maintain prices and that it does insist upon the maintenance of its specified prices and will not allow the matter to drop without an understanding with the alleged price cutter to the effect that in the future the specified prices shall be observed by him.

Respondent, acting on such reports and in pursuance of the representations made by it to reporting dealers, does investigate such reports, and in a majority of the cases through correspondence and interviews by its agents it procures from the price cutter a promise or agreement for the future observance by such price cutter of the specified prices.

Unless an agreement for the future observance of prices be obtained from a dealer found to be cutting prices respondent refuses further shipments to such dealer unless there be some impelling reason for his retention as a dealer, and if such dealer be one not purchasing direct from respondent but purchasing from some jobber of respondent's products, respondent makes an investigation as to the sources of supply of such dealer with the intention of endeavoring to get the jobber supplying such dealer to discontinue such supply.

PAR. 10. In all of the methods mentioned in paragraph 9 hereof respondent has enlisted and obtained the cooperation of its dealers generally and all interested parties in an active effort to maintain respondent's price maintenance policy by means of such methods, with the effect that dealers handling respondent's products generally throughout the United States have sold and do sell such products to the consuming public at the uniform prices fixed by respondent's products at such lower prices as might be deemed by them to be warranted by the respective selling costs and by trade conditions generally, and thus suppressing and hindering competition, in respect to respondent's products, in interstate commerce.

CONCLUSION.

That the practices of the said respondent, under the conditions and circumstances herein set forth, are unfair methods of competi-

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PAR. 9. Respondent fixes uniform prices at which its products shall be retailed, and circulates among its customers and the trade generally price lists setting forth such prices. Respondent insists upon the observance of such prices and to that end procures from its customers written contracts, agreements, and understandings, obligating its customers to observe the prices specified.

Conclusion.

Respondent solicits and procures from dealers retailing its products reports of price cutting on the part of other dealers. When such reports are not sufficient to enable respondent to make an investigation it requests and receives from the reporting dealers further information. Respondent, in acknowledging such reports and information, assures the reporting dealers of its appreciation of same and its cooperation in endeavoring to procure the maintenance of the specified prices on the part of the alleged price cutters. It advises the reporting dealer that it will do everything in its power to maintain prices and that it does insist upon the maintenance of its specified prices and will not allow the matter to drop without an understanding with the alleged price cutter to the effect that in the future the specified prices shall be observed by him.

Respondent, acting on such reports and in pursuance of the representations made by it to reporting dealers, does investigate such reports, and in a majority of the cases through correspondence and interviews by its agents it procures from the price cutter a promise or agreement for the future observance by such price cutter of the specified prices.

Unless an agreement for the future observance of prices be obtained from a dealer found to be cutting prices respondent refuses further shipments to such dealer unless there be some impelling reason for his retention as a dealer, and if such dealer be one not purchasing direct from respondent but purchasing from some jobber of respondent's products, respondent makes an investigation as to the sources of supply of such dealer with the intention of endeavoring to get the jobber supplying such dealer to discontinue such supply.

PAR. 10. In all of the methods mentioned in paragraph 9 hereof respondent has enlisted and obtained the cooperation of its dealers generally and all interested parties in an active effort to maintain respondent's price maintenance policy by means of such methods, with the effect that dealers handling respondent's products generally throughout the United States have sold and do sell such products to the consuming public at the uniform prices fixed by respondent's products at such lower prices as might be deemed by them to be warranted by the respective selling costs and by trade conditions generally, and thus suppressing and hindering competition, in respect to respondent's products, in interstate commerce.

CONCLUSION.

That the practices of the said respondent, under the conditions and circumstances herein set forth, are unfair methods of competi-

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tion in interstate commerce and constitute a violation of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the briefs and argument of counsel, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

It is now ordered, That the respondent, Marinello Company, its officers, agents, representatives, servants and employees, cease and desist from:

(1) Entering into contracts, agreements or understandings with dealers or any of them that respondent's products are to be resold by such dealers at prices specified or fixed by respondent;

(2) Procuring, either directly or indirectly, from its dealers, agreements, promises or assurances that the prices fixed by respondent will be observed by such dealers;

(3) Requesting its dealers to report the names of persons who do not maintain respondent's resale prices, or who are suspected of not maintaining same;

(4) Seeking the cooperation of dealers in making effective its resale price maintenance policy by manifesting to dealers an intention to act upon all reports sent in by them of variations from the suggested prices, by the elimination of the price cutter; by informing dealers that price cutters reported who would not give assurance of adherence to the suggested resale prices had been or would be refused further sales; by employing its salesmen to investigate the charges of price cutting reported by dealers and advising dealers of that fact;

(5) From cutting off or endeavoring to cut off the sources of supply of a dealer not buying direct from respondent on account of such dealer's failure to observe respondent's suggested resale prices.

It is further ordered, That the respondent, Marinello Company, shall within sixty days after the service upon it of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

Complaint.

IN THE MATTER OF
CIVIL SERVICE SCHOOL, INCORPORATED.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1255—March 17, 1925.

SYLLABUS.

Where a corporation engaged in conducting a school to qualify students to pass civil service examinations and thereby become eligible for Government employment.

- (a) Falsely advertised in effect that it was engaged for the civil service commission and in behalf of the Government in securing needed employees, and used the words "civil service" as part of its corporate name;
- (b) Falsely stated that its president was a former examiner of the commission and thereby peculiarly qualified to be of value to its students;
- (c) Misrepresented the need for further Government employees, the facts in reference to alleged prospective examinations to secure the same, and the prospects of students passing such examinations promptly securing employment;
- (d) Advertised that its courses for certain specified examinations contained the same matter that would be involved therein, the fact being that the commission supplied free of charge sample question sheets and other informative matter relating thereto; and
- (e) Pretended to guarantee that a student failing to pass two successive examinations would have his money refunded;

With the effect of misleading and deceiving many of the public and of inducing them to purchase its courses:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. T. John Butler for the Commission.

COMPLAINT.

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that the Civil Service School, Incorporated, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized under the laws of the District of Columbia, with its office and place of business in said District. It is engaged in the business of giving courses of